

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

RICHARD V. MITCHELL,

Plaintiff,

v.

WELLS FARGO BANK, NA,

Defendant.

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Civil Action No. 5:09-CV-356 (HL)

ORDER

The parties to this case appeared before the Court on April 7, 2010 for a show cause hearing. The Court thereafter entered an order (Doc. 15) stating that no later than April 16, 2010, Defendant was to provide copies of the note, mortgage, assignment, and any other documents which show that Defendant is properly in possession of the note and mortgage executed by Plaintiff relating to the property in question. Plaintiff was ordered to review the documents and contact the Court no later than April 23, 2010 to inform the Court of his position regarding moving forward with the case.

On April 8, 2010, Defendant sent to Plaintiff by certified and first class United States Mail copies of a First Mortgage Security Deed, Adjustable Rate Rider, Adjustable Rate Note, Interest-Only Addendum to Adjustable Rate Promissory Note, Assignment to Wells Fargo Bank, N.A., and Recorded Deed Under Power.

Plaintiff contacted the Court as ordered on April 23, 2010. He spoke with Mary Beth Hand, one of the Court's law clerks. Plaintiff informed Mrs. Hand that the documents sent to him by Defendant were not sufficient, as he believes Defendant was supposed to send original documents, not copies. Plaintiff stated that he wants to move forward with the case.

The Court has made a good faith effort to resolve this dispute; however, it appears that the case cannot be resolved amicably. Therefore, the case will move forward. There is currently pending before the Court a Motion by Defendant to Dismiss Case, or in the Alternative, to Transfer Venue to the Northern District of Georgia (Doc. 8). Plaintiff has not filed a response to the Motion. Even though the time for Plaintiff to respond has passed, the Court will allow Plaintiff until May 7, 2010 to file a response.

The Court also notes that the parties have not yet filed a joint Rules 16 and 26 discovery report. The parties will be allowed until May 7, 2010 to file their joint report. Plaintiff is ordered to cooperate with counsel for Defendant in the development of a discovery plan.

SO ORDERED, this the 28th day of April, 2010.

s/ Hugh Lawson
HUGH LAWSON, SENIOR JUDGE

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